

REMARKS

The Office Action mailed December 18, 2009, has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Record of Interview

On January 12, 2010, an interview was conducted by telephone between Examiner Chan and the undersigned. The Applicant thanks the Examiner for granting this interview. The details of the interview are set forth in the Interview Summary document made of record.

Claim Status and Amendment of the Claims

Claims 1-2, 5-12, 15-21, 24-29, 31-39, and 41 are currently pending.

No claims stand allowed.

Claims 3-4, 13-14, 22-23, 30 and 40 were previously cancelled without prejudice or disclaimer of the subject matter contained therein.

Claims 1, 11, 20, 31, 32, 36, and 41 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes is found in the specification, figures, and claims as originally filed.

The First 35 U.S.C. § 103 Rejection

Claims 1, 2, 5-12, 15-21, and 24-40 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Meier et al.,¹ in view of Palckar et al.² among which claims 1, 11, 20, 31, 32, and 36 are independent claims.³

¹ U.S. Publication No. 2005/0185626 to Meier et al.

² U.S. Publication No. 2003/0226017 to Palckar et al.

³ Office Action mailed December 9, 2009, at p. 3.

As an initial matter, the Applicant notes Claims 30 and 40 were previously cancelled without prejudice or disclaimer of the subject matter contained therein. Additionally, the Office Action does not indicate the status of Claim 41. The Applicant assumes the Examiner intended to reject Claims 1, 2, 5-12, 15-21, and 24-29, 31-39, and 41.

Turning to the substance of the rejection, according to the M.P.E.P.,

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.⁴

Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.⁵

Claim 1

Claim 1 as presently amended recites:

A computer implemented method comprising:
at a network access device communicably coupled to a host network, sensing a user device coupled to a port of the network access device;
determining, by the network access device, if the user device supports a user authentication protocol used by the host network, the determining comprising polling the user device for the user authentication protocol, the user authentication protocol comprising a protocol to validate the identity of a user of the user device; and
placing, by the network access device, the port into a semi-authorized access state if it is determined that the user device does not support the user

⁴ M.P.E.P. §2143.

⁵ *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

authentication protocol, the semi-authorized access state providing the user device with limited network access.

The Examiner states:

Meier et al. clearly disclose and show a computer implemented method comprising:
at a network access device (fig. 3 (1 02)) communicably coupled to a host network (paragraph 0004 (network)), sensing a user device (fig. 3 (302), paragraph 0032 (WSTA attempting to gain access to AP)) coupled to a port of a network access device (paragraph 0032 (attempting to gain access to AP)); and placing the port into a semi-authorized access state (paragraph 0022 (default guest set)) the semi-authorized access state providing the user device with limited access (paragraph 0022 (restricted access)).

However, Meier et al. do not specifically disclose determining if said user device supports a user authentication protocol.

In the same field of endeavor, Palekar et al. clearly show determining if the user device supports a user authentication protocol used by the host network (para. 0049 (if user supports authentication protocol)), the determining comprising polling the user device for the user authentication protocol (para. 0049 (send a EAP request)), the user authentication protocol comprising a protocol to validate the identity of a user of the user device (para. 0044(user's identity)); Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method of user authentication, as taught by Meier, and show determining if said user device supports a user authentication protocol, as taught by Palekar, so that proper access can be granted according to authentication.⁶

Meier et al. in View of Palekar et al. Does Not Disclose Determining, By The Network Access Device, If The User Device Supports A User Authentication Protocol

Contrary to the Examiner's statement, Meier et al. in view of Palekar et al. does not disclose "... determining if the user device supports a user authentication protocol" as required by Claim 1. In support of the Examiner's statement, the Examiner refers to the following portion of Palekar et al.:

[0049] After the TLS tunnel, or similar networking protocol, has been established, encrypting communication between the user's computing device and the authenticating server, intermediate devices, such as the access point, can no longer meaningfully observe the network communication between the two

⁶ Office Action at pp. 4-5.

endpoints because they do not have the necessary cryptographic keys. At this point, a protocol such as EAP can be used to again negotiate an exact protocol for authenticating the user to allow the user access to the network. For example, using the encrypted communication between the user's computing device and the authenticating server, the authenticating server can send an EAP request for a particular authentication protocol, such as CHAP or MSCHAP. If the user's computing device supports the authentication protocol specified in the EAP request, it can respond with an acknowledgement. Once the exact authentication protocol is agreed upon, the user can be prompted for their identification. Because the authentication communications are now being sent as encrypted communications, the user can safely transmit their entire user id, such as their email address. Based on this information, the user's computing device can prove knowledge of the user's password by, for example, sending a key-hash of a server-sent random value, using the password, which the authentication server can verify and thereby authenticate the user and grant the user access to the network.⁷

The above portion of Palekar et al. cited by the Examiner speaks generally about using an encrypted communication between a user device and an *authenticating server* to negotiate a protocol for authenticating a user. The cited portion of Palekar et al. says nothing about determining, *by the network access device*, whether a user device supports a particular user authentication protocol. The Applicant respectfully submits it is improper to equate a network access device with the authenticating server of Palekar et al.

With this Amendment, Claim 1 has been amended to make this distinction more clear. Specifically, Claim 1 has been amended to recite in part “determining, *by the network access device*, if the user device supports a user authentication protocol used by the host network, the determining comprising polling the user device for the user authentication protocol, the user authentication protocol comprising a protocol to validate the identity of a user of the user device.” (emphasis added) Also with this Amendment, Claim 1 has been amended to recite in part “placing, *by the network access device*, the port into a semi-authorized access state if it is determined that the user device does not support the user authentication protocol, the semi-

⁷ Palekar et al. at ¶ 49.

authorized access state providing the user device with limited network access.” (emphasis added) These amendments clearly indicate it is the network access device that performs the recited (1) sensing, (2) determining, and (3) placing steps in Claim 1. These three steps, each being performed by the network access device as required by Claim 1, is not taught or suggested by Meier et al. in view of Palekar et al.

For at least the above reasons, the Applicant respectfully submits Claim 1 is allowable over the cited art of record. Withdrawal of the 35 U.S.C. § 103 rejection is respectfully requested.

Independent Claims 11, 20, 31

Claim 11 is a non-means-plus-function apparatus claim corresponding to method claim 1. Claim 20 is a non-means-plus-function system claim corresponding to method claim 1. Claim 31 is a means-plus-function apparatus claim corresponding to method claim 1. Claim 1 being allowable, Claims 11, 20, and 31 must also be allowable for at least the same reasons as for Claim 1.

Independent Claims 32, 36, and 41

Independent claim 32 is a method claim that includes limitations similar to independent method Claim 1. Specifically, Claim 32 as amended recites in part “*at the network access device*, allowing the user device limited access to a network via the network access device.” (emphasis added) Accordingly, the arguments made above with respect to Claim 1 apply here as well.

Claim 36 is a non-means-plus-function apparatus claim corresponding to method claim 32. Claim 41 is a means-plus-function apparatus claim corresponding to method claim 32.

Claim 32 being allowable, Claims 36 and 41 must also be allowable for at least the same reasons as for Claim 32.

Dependent Claims 2, 5-10, 12, 15-19, 21, 24-29, 33-35, and 37-39

Claims 2 and 5-10 depend from Claim 1. Claims 12 and 15-19 depend from Claim 11. Claims 21 and 24-29 depend from Claim 20. Claims 33-35 depend from Claim 32. Claims 37-39 depend from Claim 36. Claims 1, 11, 20, 32, and 36 being allowable, Claims 2, 5-10, 12, 15-19, 21, 24-29, 33-35, and 37-39 must also be allowable for at least the same reasons as for Claims 1, 11, 20, 32, and 36.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,

NIXON PEABODY LLP

Dated: January 29, 2010

/John P. Schaub/

John P. Schaub

Reg. No. 42,125

NIXON PEABODY LLP
200 Page Mill Road, 2nd Floor
Palo Alto, CA 94306
Tel. (650) 320-7700
Fax. (650) 320-7701